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Report of the Court on policy issues
(Anti-fraud, whistleblower policies, financial disclosure programme, longer-term investment options and employee benefit liabilities)*

Executive Summary

This report addresses the Committee's requests on the following policy issues: (A) anti-fraud and whistleblower policies and the financial disclosure programme; (B) criteria and safeguards for choosing longer-term investment options; and (C) the policy on employee benefit liabilities (EBL).

I. Anti-fraud and whistleblower policies and financial disclosure programme

In this report the Court provides information on the implementation of the anti-fraud and whistleblower policies and the personal declaration of assets through a financial disclosure programme:

(a) Fraud and whistleblowing: Presidential Directives laying out the basic principles of the Court's policies on fraud and whistleblowing have been promulgated. The relevant administrative issuances remain outstanding pending finalization of the recruitment of the permanent head of the Independent Oversight Mechanism.

(b) Financial disclosure programme: In 2015, the Court will implement a Financial Disclosure Policy (FDP) with the support of the UN Ethics Office (UNEO) to manage the risk of conflict-of-interest situations arising from staff members' holdings (e.g. assets and investments) and/or activities. Furthermore, in accordance with International Public Sector Accounting Standards (IPSAS), the Court has requested information on related party transactions from key management personnel. The financial statements will therefore disclose information concerning related parties and transactions between the Court and related parties.

(c) The Court has prepared an Administrative Instruction which encompasses both the FDP and IPSAS20 elements and which is, at the time of submission of this report, in the final stages of internal consultation.

II. Criteria and safeguards for choosing longer-term investment options

In the Report of the Court on the methodology for calculating accruals and investment policy review,[1] the Court proposed to amend the Financial Regulations and Rules in order to be able to invest funds for periods longer than 12 months. In this report,

* Previously issued as CBF/24/23 and Add.1.
[1] CBF/23/4.

the Court provides an outline of the criteria and safeguards for choosing longer-term investments and presents amendments to the Financial Regulations and Rules and the Administrative Issuance on Investment of Surplus Funds in an annex to the report. Under the proposed new legal framework, the Court would be allowed to invest in new long-term financial instruments. The criteria and safeguards of high creditworthiness and maximum investment limits are proposed, together with alignment of the structure of assets and liabilities by currency and maturity and limiting interest rate risks.

III. Policy on employee benefit liabilities

This report addresses Committee's request for a deeper analysis of the need to fund employee benefit liabilities.[2] The Court reiterates the arguments presented in the Report of the Court on policy issues[3] for full long-term EBL funding. The arguments are supported by the long-term budget projections, annual accrual-based long-term employee benefit expenses, annual disbursements relating to long-term employee benefits and EBL development for a 30-year period. The policy choices to fully fund EBL have already been made in respect of major long-term EBL and of pensions, which are fully funded through payments of contributions to UNJSPF and a premium to Allianz NV. The Court is of the view that the funding policy for other long-term EBL should not be an exception. The Committee is invited to approve the policy proposed by the Court.

Repatriation grants and removal costs on separation on an accrual basis are more stable over the years compared to cash-based payments which show a greater degree of fluctuation. Overall, on the basis of assumptions, liability shows an upward trend, owing to an assumed salary increase of 2.7 per cent and an assumed inflation rate of 2 per cent. However, as a greater number of staff members are expected to leave the Court in certain periods, the liability in those periods decreases.[4] Overall, liability for repatriation grants fluctuates between €5 million and €8 million and liability for removal costs fluctuates between €1 million and €2 million in the long term.

ASHI benefits have recently been introduced, and the number of participants in this plan is expected to grow.[5] ASHI is expected to result in relatively low disbursements over the next 15 years (below €700 thousand annually) while annual accrual-based expenses are expected to grow from €1.4 million to €4 million. This would result in a substantial accumulation of funds for funding the ASHI scheme.

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[2] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Thirteenth session, New York, 8-17 December 2014* (ICC-ASP/13/20), Vol. II, part B.2, para. 109.
[3] CBF/22/9.
[4] Liability for repatriation grants and removal costs on separation follows staff turnover assumptions. Currently, the Court does not have a better basis on which to project long-term turnover rates than to use experience in recent years. It is, however, unrealistic to assume that turnover rates will remain stable over a 30-year period.
[5] Growth is impacted by both staff turnover rates and mortality rates.

I. Anti-fraud and whistleblower policies and financial disclosure programme

A. Introduction

1. The Committee on Budget and Finance ("the Committee") took note at its twenty-second session, of the report of the International Criminal Court ("the Court") on policy issues (accruals, anti-fraud and whistleblower, and multi-year project),[6] submitted to the Committee in March 2014, in which the Court informed the Committee about the guidelines issued. The Committee welcomed the work done to date and requested the Court to submit a detailed report to it at its twenty-fourth session.[7]

B. Anti-fraud and whistleblower policies

2. The Court's anti-fraud policy was promulgated through Presidential Directive ICC/PRESD/G/2014/002 in May 2014. It clearly laid out the Court's zero tolerance for fraud and outlined the responsibility of all elected officials, staff members, and others serving at the Court, in relation to fraud. Through this policy, the Court provided clear guidelines for reporting fraud and taking remedial action. The policy also stated that the Presidential Directive would be translated into relevant administrative issuances so as to ensure a comprehensive system combatting fraud, in particular policies regarding whistleblowers and their protection and a financial disclosure program.

3. Similarly, the Court's policy on whistleblowing and whistleblower protection was promulgated in October 2014 through Presidential Directive ICC/PRESD/G/2014/003. The purpose of the Presidential Directive is to provide elected officials, staff members and other persons serving the Court with an avenue to report in good faith suspected misconduct; establish a framework of protection and procedures within which internal and external parties may in good faith report and cooperate with fact finding activities, and protect such persons against retaliation committed by internal or external parties.

4. This Presidential Directive will also need to be translated into relevant administrative issuances so as to ensure a comprehensive system for the encouragement and protection of whistleblowers.

5. Considering the important role of the Independent Oversight Mechanism (IOM) in preparation of the promulgated Presidential Directives which are the product of thorough inter-organ consultation involving also the Staff Union Council, and considering that the Bureau has been unable to finalize recruitment of the permanent head of the IOM, the consultation process for preparation of the relevant administrative issuances remains outstanding and will be resumed when the IOM becomes operational.

C. Financial disclosure programme

6. In 2015 the Court will implement a Financial Disclosure Policy (FDP), with the support of the UN Ethics Office (UNEO), for the purpose of managing the risk of conflicts of interest. The aim is to identify, resolve and mitigate conflict of interest situations arising from staff members' holdings (e.g. assets and investments) and/or activities. Under the FDP, selected staff members are required to disclose annually their assets and liabilities, outside activities and affiliations.

7. An MOU between the Court and UNEO has been prepared to establish the legal agreement in terms of the mutual cooperation and level of support provided. This MOU enables the UNEO to implement the financial disclosure requirements on behalf of the Court. The UNEO provides this same level of support to, for example, the UN-ICTY and the Special Tribunal for Lebanon. The latter has also entered into an MOU with the UNEO for their FDP requirements.

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[6] ICC-ASP/13/9.

[7] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Thirteenth session, New York, 8-17 December 2014* (ICC-ASP/13/20), vol. II, part B.1, para. 48.

8. In or before January each calendar year, the UNEO will request from the Court a list of personnel required to file, with required details. For the purposes of the FDP, the Court has identified the following classification of personnel required to file:

(a) The Prosecutor, Deputy Prosecutor, Registrar and Deputy Registrar;

(b) All staff members and officials at D-1 level or above;

(c) All Certifying Officers;

(d) All Procurement staff members, or those whose principal occupational duties are the procurement of goods and services for the Court;

(e) All staff members whose principal occupational duties are related to the investment of the assets of the Court;

(f) Other staff members and officials whose direct access to confidential procurement or investment information warrants the filing of disclosure statements; and

(g) All staff members serving in the Independent Oversight Mechanism and the Internal Audit Office.

9. The current scope of personnel at the Court who are required to file is expected to include between 45 and 75 staff members.

10. In March of each calendar year, those personnel required to file will submit their information through a secure website. The required information also covers spouses and dependent children. At the time of writing, the MOU is nearing finalization. The Court is fully committed to ensuring that the FDP is rolled out in 2015 but a negotiated date later than March may be required to accommodate the Court in 2015, depending on the length of time needed to draw up the MOU between the Court and UNEO.

1. IPSAS20

11. For the purpose of preparing the 2014 Financial Statements in accordance with International Public Sector Accounting Standards (IPSAS) for the Court and the Trust Fund for Victims, the Court requested information on related party transactions from key management personnel. IPSAS requires that the financial statements disclose information concerning related parties, and transactions between the Court and related parties. This information is required for accountability purposes and to facilitate a better understanding of the financial position and performance of the Court. The information disclosed is included in the notes to the financial statements and as such is subject to external audit procedures.

12. Related party relationships exist where one party has the ability to control the other party, or to exercise significant influence in making financial and operating decisions. Related parties of an organization include: the key management personnel; close family members of key management personnel; and entities in which key management personnel or close members of their family hold a substantial ownership interest, or over which they are able to exercise significant influence.

13. Each key management person was required to complete and sign the declaration form to state either that there are no related party transactions of which they are aware, or to provide the details of transactions that fall within the definition. Disclosures in the financial statements are made on an aggregated rather than an individual basis.

2. Court Policy

14. The Court has prepared a Court-wide Administrative Instruction entitled ‘Financial Disclosure, declaration of interest and declaration of related party transaction (the Policy). This Policy encompasses both the FDP and IPSAS20 elements. The decision to combine the internal Policy was taken given the overlap in processes due to some FDP filers also being key management personnel for IPSAS20, and to ensure efficiency gains.

15. At the time of submission of this report, the Policy is in the final stages of inter-organizational consultation, after which time is will be promulgated Court-wide.

II. Criteria and safeguards for choosing longer term investment options

A. Introduction

16. The Committee requested the Court to present the results of the investment policy review to the Committee at its twenty-third session.[8]

17. The Court presented the results of its investment policy review[9] and stated that it will be necessary to amend Financial Regulation 9 and the Administrative Instruction ("AI") on Investment of Surplus Funds. The Court proposed that the duration but not the risk profile of its investments be extended.

18. At its twenty-third session, the Committee agreed with the Court that the Registrar should be given the option to invest for longer terms. The Committee noted the Court's proposal for amending the Financial Regulations and Rules ("FRR") accordingly. The Committee invited the Court to present the full set of amendments to the FRR for consideration at its twenty-fourth session.[10] The Committee also invited the Court to draw up an outline of the criteria and safeguards for choosing the longer-term investment option, including further clarifications as to what this might entail in the FRR and the Administrative Instruction, to be submitted to it at its twenty-fourth session.[11]

B. Proposed amendments to the FRR and AI

19. Proposed amendments to the FRR are presented in Annex I and proposed comprehensive amendments to the AI are presented in Annex II to this report.

20. The amendments to the FRR are limited to allowing for longer-term investments and recognizing that the Court might be dealing with counterparties other than financial institutions.

C. Criteria and safeguards for long-term investments

21. The existing AI prescribes responsibilities, policies, types of investment, investment procedures, limits and reporting requirements in respect of investments of surplus funds not needed for immediate operational requirements, with a maximum investment duration of up to 12 months. As the Court might hold funds that will not be needed in a given financial period, the appropriate amendments to the AI are proposed to deal with the longer term placement of funds.

22. The amendments to the AI are consistent with the amendments to the FRR allowing for longer-term investments while maintaining a conservative investment policy aimed at preserving the principal amount while maximising the return. In this respect, an amendment is proposed to the section concerning type of investment, introducing only government debt securities as a new financial instrument in which the Court might potentially invest.

23. Furthermore, the Bank selection and investment limits section is renamed and is now the Investment safeguards and criteria section, dealing with safeguards and criteria for investments that are aimed at maintaining the conservative risk profile of both the Court's short- and longer-term investments. For long-term investments, a maximum investment limit of 20 per cent in any one financial instrument of any single issuer is proposed. Both short- and long-term investment exposure to credit risk would be limited to AA-rated issuers. However, for long-term investments relaxation of these criteria during extreme situations on the financial market would not apply.

24. The Court notes, in particular, that the structure of investments is aligned by currency and maturity to the structure of corresponding liabilities. Additionally, investments in government bonds and debt securities would be made with the intention and

[8] *Official Records … Thirteenth session … 2014* (ICC-ASP/13/20), vol. II, part B.1, para.31.
[9] CBF/23/4Rev.1.
[10] *Official Records … Thirteenth session … 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 74.
[11] *Official Records … Thirteenth session … 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 76.

ability to hold investments until maturity in order to avoid exposure to market risks, specifically, interest rate risk.

25. The Court also proposes amendments to the section on Investment responsibilities. An additional paragraph is added: "On the recommendation of the Investment Review Committee, the Registrar may appoint one or more investment managers, who shall invest the assets in accordance with agreed policies and strategies."

26. As the Court moves towards longer-term investment, the need for effective management of assets and risks comes to the fore. The Court can either manage its assets in-house or rely on external experts ("outsourcing"). In view of growing complexity and the higher amounts invested, it might be prudent to strengthen the Court's in-house capacity through external support. The extent to which the Court would actually use this possibility is a separate policy matter to be presented for the Committee's consideration in due course.

III. Employee benefit liabilities

A. Introduction

27. The Court submitted a proposed policy for the funding of employee benefit liabilities (EBL) to the Committee at its twenty-second session.

28. The Committee had requested the Court to present a comprehensive report on the methodology for calculating accruals for employee benefit liabilities, namely annual leave, repatriation grant, relocation allowance and after-service health insurance, at its twenty-third session.[12] The Committee requested that it be provided with more detailed information on the manner in which liabilities were calculated, including assumptions about expected annual drawdown in future years on employee benefits.

29. The Court submitted the report explaining the methodology for calculating accruals for the Committee's twenty-third session.

30. The Committee, at its twenty-third session, was of the view that the need for, and the extent of, funding EBL upfront, whether fully or partially, required a deeper analysis. To better assess any long-term risk and the appropriate policy response, the Committee invited the Court to produce long-term scenarios, projecting budget size under different assumptions, together with the corresponding volume and maturity profile of EBL, broken down by category of EBL and judges' benefit entitlements included in the projections. The Committee requested a report for its twenty-fourth session.[13]

B. Long-term projections

31. In Section A of the Report of the Court on policy issues – Funding of employee benefit liabilities – the Court proposed that full funding for long-term EBL should be achieved by charging accrual based expenditure to the annual budget rather than charging the budget for payments made in respect of long-term employee benefits in a given financial period.

32. The Court argued that accrual-based budgeting and related full funding of EBL would be preferable to a pay-as-you-go approach as it results in a better performance measurement and management and, as the organization matures, avoids the undue burden of post-employment benefits on the current activities of the Court.

33. In fact, the Court's major post-employment benefits are already fully funded: staff pensions are funded through contributions to the United Nations Joint Staff Pension Fund and judges' pensions are funded through the payment of an insurance premium to Allianz NV.

34. The Committee concurred with the Court that unfunded liabilities should not be allowed to produce a financial burden with which the organization would struggle in the future, resulting in undue pressure on its core business.[14]

[12] *Official Records … Thirteenth session … 2014* (ICC-ASP/13/20), vol. II, part B.1, para. 31.
[13] *Official Records … Thirteenth session … 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 109.
[14] *Official Records … Thirteenth session … 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 111.

35. In order to have a better understanding of the long-term impact of accrual versus cash-based budgeting for EBL, the Committee requested, and the Court prepared, long-term projections for the next 30 years of EBL, annual accrual-based expenses and annual cash flows for major long-term benefits: relocation allowance, removal cost and travel on separation for judges and for after-service health insurance (ASHI), repatriation grant, travel on separation, removal cost and insurance for staff members.

36. Following the Committee's request, the Court engaged certified actuaries to work on the projections based on the same assumptions (including discount rate, staff turnover and salary increase, annual inflation rate, and medical cost increase rate) that were used in the valuation of EBL on 31 December 2014. It was also assumed that number of employees would stay the same.

37. The Court provided the actuaries with the age and gender structure for the Court's employees over the past five years, as well as age and gender structure of incoming and outgoing employees over the past five years in order to appropriately include staff turnover in the model.

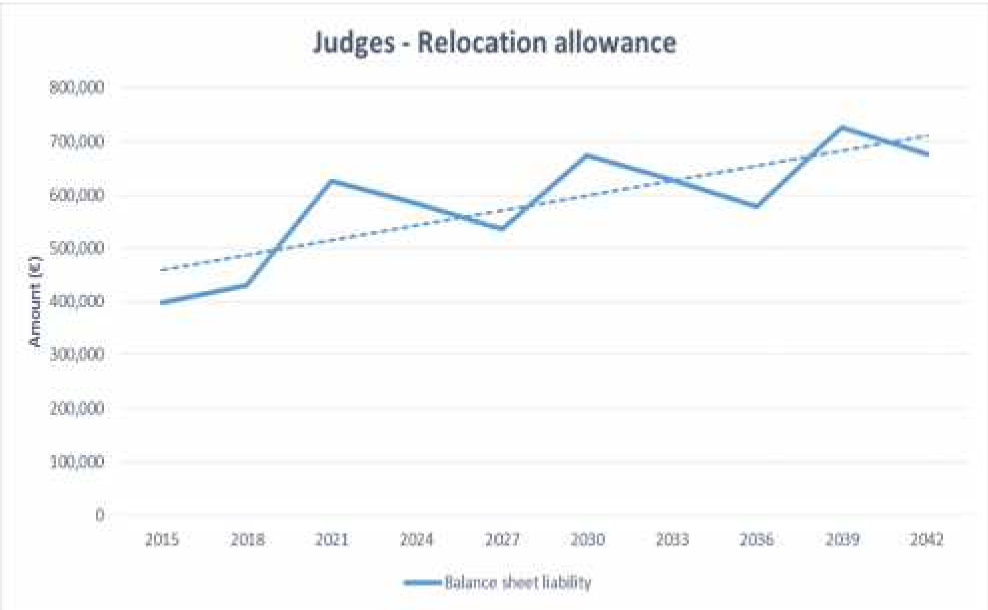
38. The results of the actuarial projections of long-term EBL were included in the 30-year budget projections to better assess their impact on the budget. Budget projections were made on similar simplified assumptions: that staff costs will grow at the rate of salary growth, including the combined effect of salary-scale and -step increases of 2.7 per cent annually, and that non-staff costs will grow at an annual inflation rate of 2 per cent (see Annex III). The results of long-term projections, as expected, are very sensitive to assumptions.

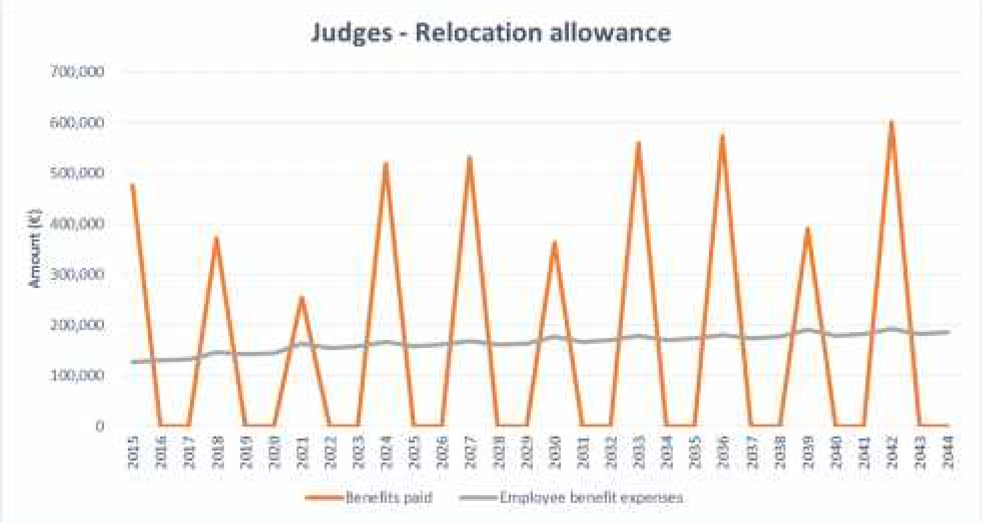
39. Interpretation of results for staff benefits is more difficult and significantly impacted by age structure and staff turnover assumptions. It is, however, clear that, on the basis of its value, ASHI is the most significant benefit.

40. The graphs below provide overviews of the projected balance sheet liabilities, employee benefit expenses and benefits paid for the coming 30 years under IPSAS 25. The results are presented separately, by plan.

1. Relocation allowance for judges

41. The graphs below show the projection of the balance sheet liability, the benefits paid and the employee benefit expenses of the relocation allowance for judges.





42. From these graphs the following can be concluded:

(a) The balance sheet liability is expected to increase over time, owing primarily to rising salaries and a consequent rise in benefits paid;

(b) The balance sheet liability does not increase constantly. This is because the number of judges leaving service differs each year and the average period of service, which determines the amount of relocation allowance, varies from year to year;

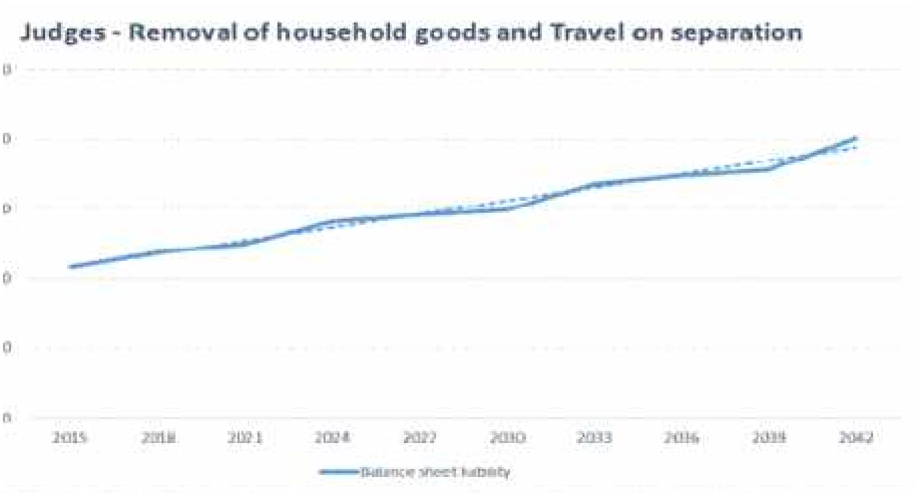
(c) The benefits paid increase over time, in line with an assumed salary increase of 2.5 per cent every three years;

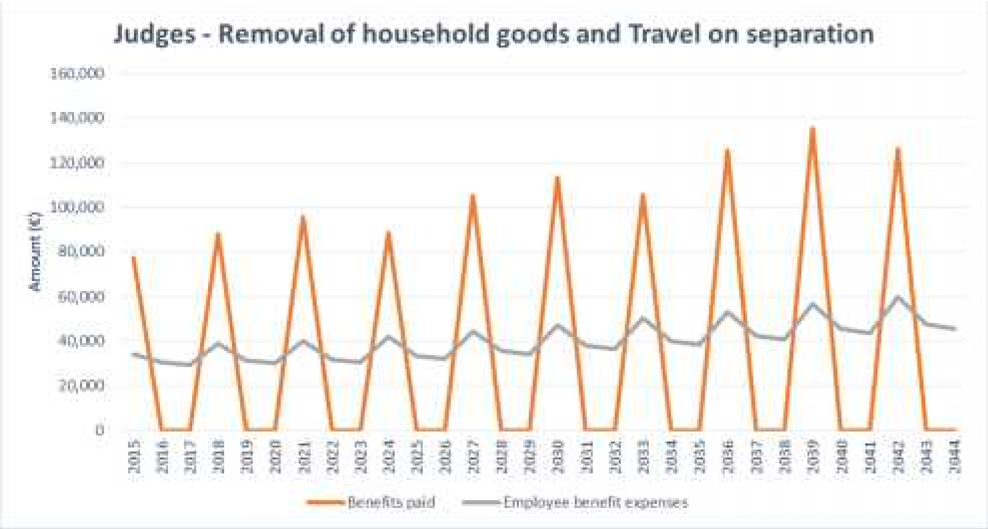
(d) The amount to be paid in relocation allowances increases over time but does not do so uniformly and may actually fall in some years. This is because judges are expected to leave service only every third year, once in every three valuations, meaning that relocation allowances only have to be paid out once in three years, and because the number of judges leaving service will not be the same on every occasion; and

(e) Employee benefit expenses show a relatively steady, slightly upward trend. The stability is provided by the fact that the relocation allowance is allocated equally over the years the judges are in service, while the upward trend is due to an assumed increase in judges' salaries.

2. Removal costs and travel on separation for judges

43. The graphs below show the projections for the balance sheet liabilities, the benefits paid and the employee benefit expenses of the removal of household goods and personal effects and travel on separation for judges.





44. The pattern which can be seen here is similar to that for the relocation allowance above:

(a) The balance sheet liability and benefits paid increase over time; and

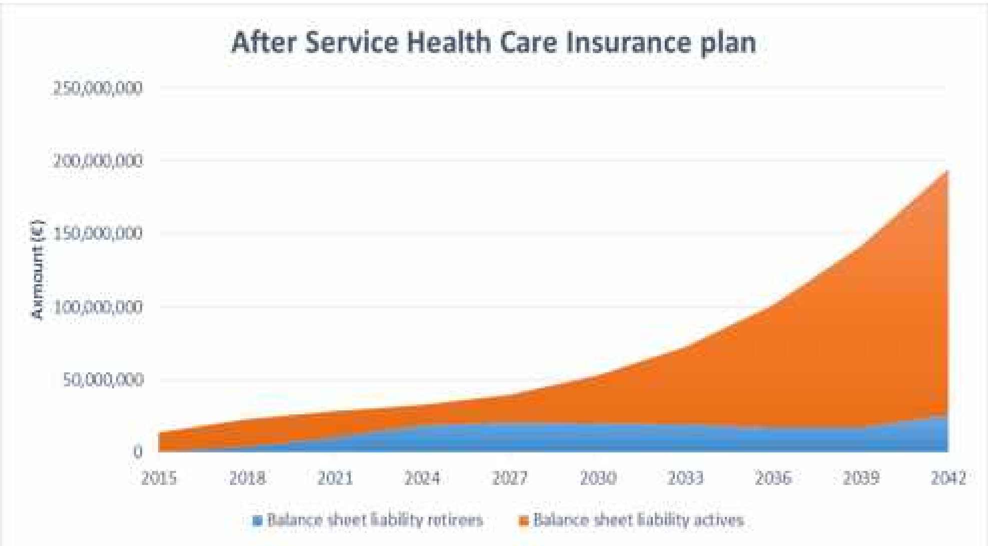
(b) The employee benefit expenses show a relatively steady increase.

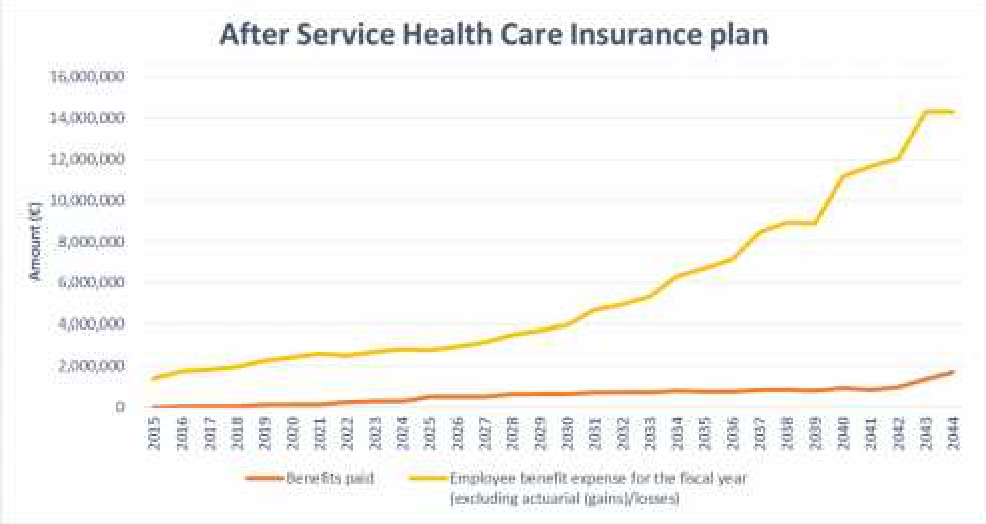
45. However, the costs are influenced not by salary increases but by the rate of inflation. Since the assumed inflation rate (2.0 per cent annually) is higher than the salary increase rate (2.5 per cent every three years), the trend line for the balance sheet liability is steeper than that for the relocation allowance.

3. After-service health insurance (ASHI)

46. The graphs below show the projections for the balance sheet liabilities, the defined benefit obligation, the benefits paid and the employee benefit expenses of the ASHI plan. As opposed to the IPSAS 25 calculation as per 31 December 2014, the corridor methodology is no longer applied to the ASHI plan; instead (as in all other plans) all actuarial (gains)/losses are directly recognized. As a consequence of this, the balance sheet liability is equal in each year to the defined benefit obligation. Annex IV presents the same projections taking into consideration lower increases in medical costs and higher turnover rates according to the United Nations Joint Staff Pension Fund.

47. Since the ASHI plan comprises both active participants and retirees, the graph presenting the liability shows which part of the liability corresponds to retirees and which part to active participants. The employee benefit expenses are presented here without the recognition of actuarial gains or losses.





48. From these graphs the following can be concluded.

49. The balance sheet liability of the actives increases significantly over time, principally for the following reasons:

(a) The medical cost trend line, which is calculated on the basis of an annual increase in health care premiums of 5 per cent;

(b) The salary increase rate, which for active participants is 2.7 per cent annually; and

(c) The average service time of the participants, which has increased over time because over half of the permanent staff members who enter service will remain in service until retirement.

50. The balance sheet liability for retirees shows a relatively stable trend line. It does, however, have a warm-up period, since the scheme is very new. This is principally for the following reasons:

(a) At the start of the projections there are no retirees, as can be seen in the overview of the participants' data. In the first 12 years, however, the number of working employees remains the same, but the number of retirees which is eligible for payments from the ASHI plan increases;

(b) Subsequently, a period follows in which the number of retirees remains constant. This is because the participants who enter service and will become eligible for ASHI payments will remain in service until retirement. This is the case because the probability of staying in service until retirement (age 65) is high, while the probability of leaving service just before retirement when already eligible for payments from the ASHI scheme (between the ages of 58 and 65) is very low;

(c) In these years the liability remains relatively constant. The medical cost trend line increases it, but this effect is cancelled out by the increasing mortality rates of the ageing retirees;

(d) In the last six years, the liability for retirees increases again because the number of retirees increases again in this period;

(e) While the liability for the active participants increases significantly in the last 12 years of the valuations, this pattern is not (yet) visible in the liability for retirees and the amount for disbursements. This can be explained by a relatively low increase in the number of retirees in this period. Only in 2042 is there a significant increase in the number of retirees, which will lead to significant higher disbursements after 2042; and

(f) Furthermore, owing to assumed salary increases and the medical cost trend line, the liability for a 40-years old participant in 2042 is much higher than the liability for a 40-year-old participant with the same characteristics in 2030. This increase in the liability for retirees is only visible once both are retired, which is further in the future.

51. The employee benefit expenses (excluding actuarial (gains)/losses) increase over time. This is principally for the following reasons:

(a) The medical cost trend line, which is calculated on the basis of an annual increase in the health care premiums of 5 per cent;

(b) The salary increase rate, which for active participants is 2.7 per cent annually; and

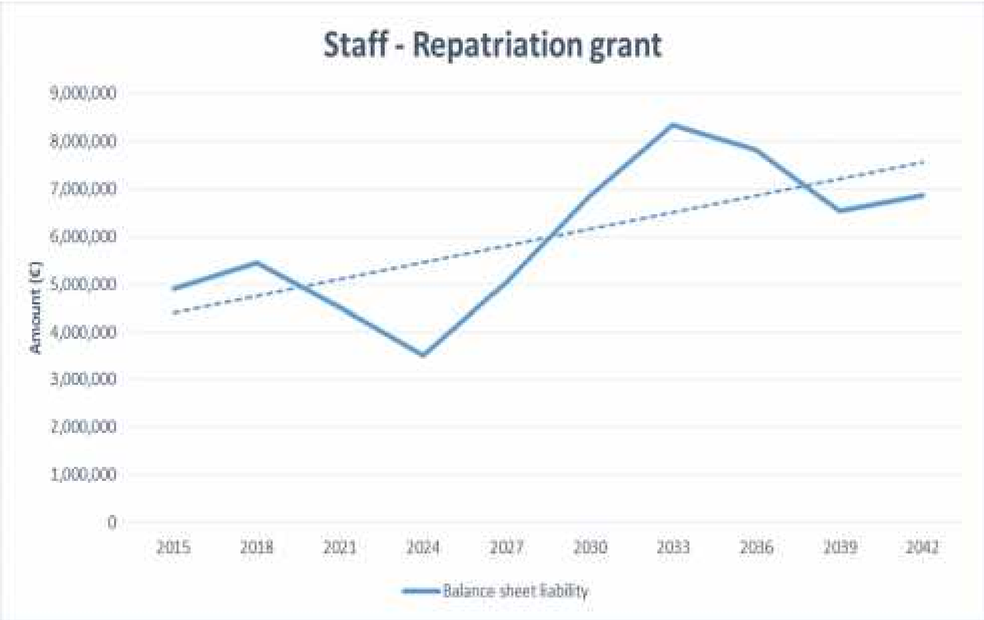
(c) The average service time of the participants, which has increased over time because over half of the permanent staff members who enter service will remain in service until retirement.

52. The benefits to be paid increase over time. This is because the number of retirees increases over time. The benefits paid to these participants will also be higher, owing to the medical cost trend line and the salary increase assumption. The significant increase in 2042 can be explained by the expected significant increase in retirees in this year. It should be noted that the ASHI long-term projection exercise should be repeated at a later stage, once the Court has more experience with the scheme.

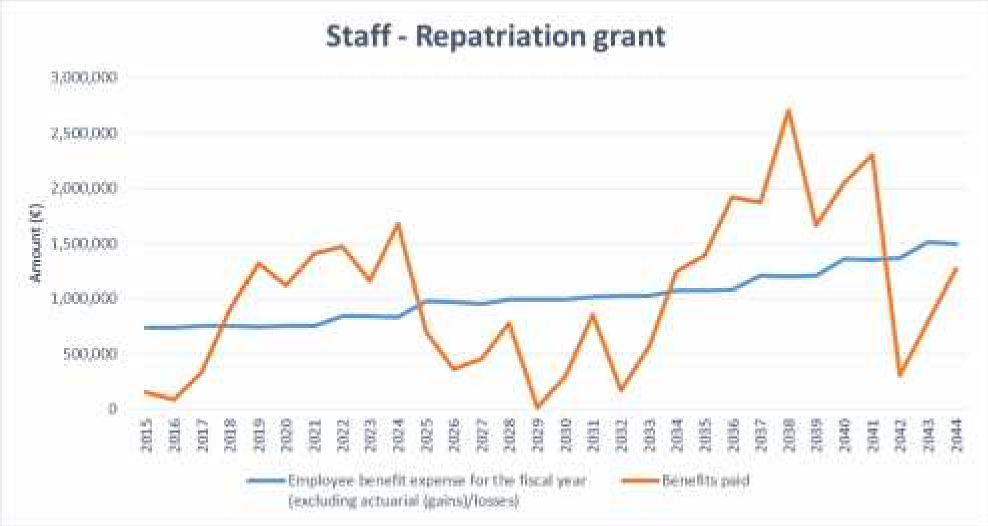
53. A short survey on the subject of ASHI funding was carried out in 2014 among UN system agencies[15] and revealed that the agencies held $2.5 billion, of which 60 per cent is managed internally and 40 per cent externally, with a tendency to further increase the externally managed share of funding.

4. Staff repatriation grant

54. The graphs below show the projections for the balance sheet liability, the benefits paid and the employee benefit expenses without the recognition of actuarial (gains)/losses in the employee benefit expenses for the repatriation grant of staff. The recognition of actuarial (gains)/losses is excluded from the employee benefit expenses because including them would lead to an unrealistic pattern in the employee benefit expenses. The reason for this is the roll forward valuations which were performed and because of which the participants' data is updated only once every three years.



[15] CTBTO, FAO, IAEA, IFAD, ILO, OECD, UNDP, UNESCO, UNHCR, UNICEF, UNOPS, UNWTO, WFP, WHO, WIPO, WMO.



55. From these graphs the following can be concluded:

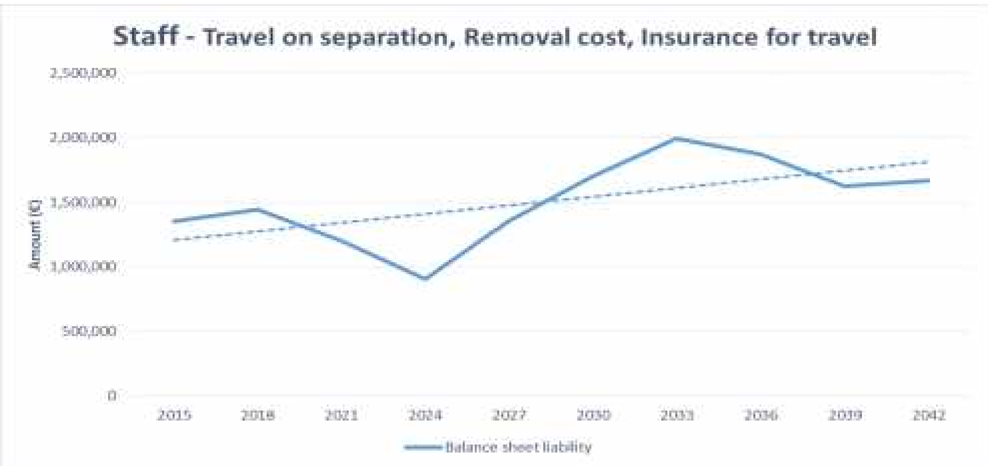
(a) The general trend of the balance sheet liability increases over time. The repatriation grants increases because the salaries of the staff members are assumed to increase by 2.7 per cent annually. There are significant drops in the balance sheet liability in 2021, 2024, 2036 and 2039, which are anticipated on the basis of assumptions that a large number of permanent staff members will leave service in those years. The significant increase in the balance sheet liability in the period 2024-2033 can be explained by the fact that relatively few staff members are expected to leave service in this period;

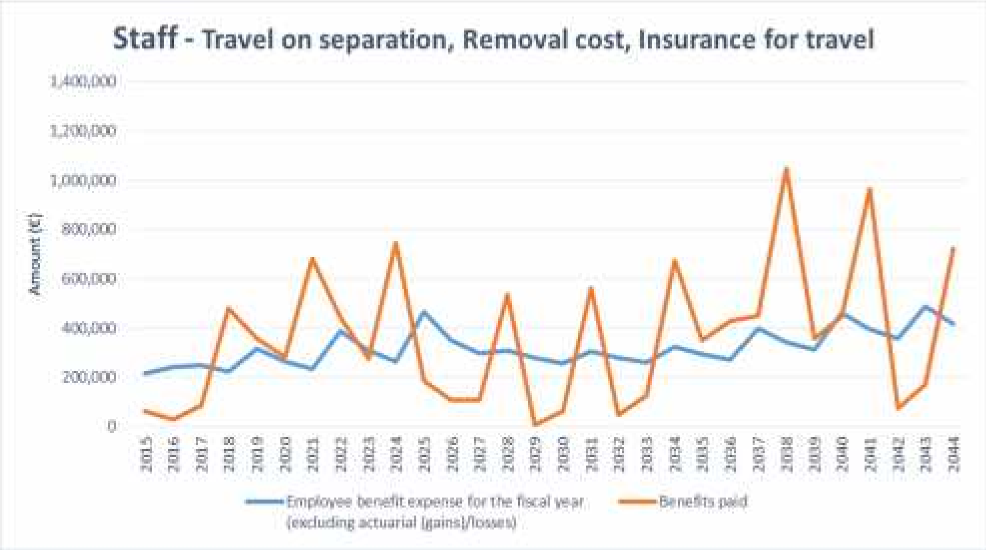
(b) The employee benefit expenses (excluding actuarial (gains)/losses) generally increase over time. This is due to the assumed increase in salary over time; and

(c) The benefits paid show, in general, an increasing trend line due to the salary increases over time. The trend for the benefits paid follows the expected trend in the participants' data.

5. Staff travel on separation, removal costs and insurance for staff members

56. The graphs below show the projections of the balance sheet liabilities, benefits paid and the employee benefit expenses without the recognition of actuarial (gains)/losses in the employee benefit expenses of the travel on separation and removal cost of personal effect and household goods and insurance for travel and shipment for staff members. The recognition of actuarial (gains)/losses is excluded from the employee benefit expenses because including them would lead to an unrealistic pattern in the employee benefit expenses. The reason for this is the roll forward valuations which were performed and because of which the participants' data is updated only once every three years.





57. From these graphs it can be concluded that the pattern seen here is similar to that in the repatriation grant plan for staff members:

(a) The general trend of the balance sheet liabilities is upwards. There are, however, some years in which the balance sheet liabilities decrease significantly. This can be explained by the fact that in some of the years in which a full valuation is performed almost half of the permanent staff is replaced, as can be seen in the overview of the participants' data. The upward trend can be explained by the fact that all costs increase by the rate of inflation annually;

(b) The employee benefit expenses (excluding actuarial (gains)/losses) increase over time. This is due to the assumed price inflation; and

(c) The benefits paid show in general an increasing trend, due to inflation over time. The trend for the benefits paid follows the expected trend for the participants' data.

C. EBL liabilities as at 31 December 2014

58. Based on the Committee's recommendations,[16] an accrual-based amount of €233 thousand for judges' salaries and entitlements was approved, while an accrual-based amount of €0.8 million for staff members' benefits was not approved in the programme budget of the Court for 2014.

59. While in prior years the Court's practice has been to fully fund EBL by charging employee benefit expenses to the budget on an accrual basis in the same amount as benefits are recognized for accounting purposes, as a result of the Committee's recommendation as well as first-time recognition of ASHI, the Court's level of EBL funding during 2014 for staff has decreased from 57 per cent to 48 per cent.

[16] ICC/ASP/12/15, paras. 64 and 123.

Table 1: Employee benefit liabilities and related assets (in thousands of euros)

	31-Dec-13			*01-Jan-14*			*31-Dec-14*		
	UNSAS			*IPSAS*			*IPSAS*		
Employee benefit liabilities	*Staff*	*Judges*	*Total*	*Staff*	*Judges*	*Total*	*Staff*	*Judges*	*Total*
Separation and other long-term benefits	5,274	1,069	**6,343**	5,472	1,032	**6,504**	6,886	923	**7,809**
ASHI	-	-	**-**	7,449	-	**7,449**	8,682	-	**8,682**
Judges' pension scheme	-	-	-	-	21,640	**21,640**	-	23,008	**23,008**
Annual leave	4,947	356	**5,303**	4,947	356	**5,303**	5,200	421	**5,621**
Total employee benefits recognized	**10,221**	**1,425**	**11,646**	**17,868**	**23,028**	**40,896**	**20,768**	**24,352**	**45,120**
Assets									
Reimbursement right*	-	-	**-**	-	21,640	**21,640**	-	23,423	**23,423**
Short term deposits	10,221	1,425	**11,646**	10,221	1,425	**11,646**	9,881	1,344	**11,225**
Total assets	**10,221**	**1,425**	**11,646**	**10,221**	**23,065**	**33,286**	**9,881**	**24,767**	**34,648**
Percentage funded	*100%*	*100%*	*100%*	*57%*	*100%*	*81%*	*48%*	*102%*	*77%*

*Insurance policy with Allianz

60. The increase in long-term EBL from 1 January 2014 to 31 December 2014 was, in addition to other factors, significantly impacted by a reduction in the discount rate used in the valuation of EBL.

61. The funds held in short-term deposits have fallen from €11.6 million at year-end 2013 to €11.2 million at year-end 2014 due to the release of €377 thousand for staff benefits on separation to the budget.[17] At the same time, the increase in liabilities for staff was not charged to the budget and there was a decrease of €44 thousand in liabilities for judges' benefits.

62. In 2014, accounting for the Committee's recommendations on accrual-based charges in the budget was complex, and as a result of similar recommendations in the 2015 proposed budget, that complexity is expected to continue. The charges to the budget for EBL over the last two years represent neither a cash-based nor an accrual-based approach, but rather an arbitrary combination of the two, which is the least desired outcome of the discussion on the appropriate EBL funding policy. The resulting accounting complexities bring no benefits to the Court or its States Parties.

[17] For commutation of annual leave, repatriation grants, travel, removal costs, travel on separation and insurance.

Annex I

Amendments to FRR

Regulation 9
Investment of funds

9.1 The Registrar may make short-term investments of moneys not needed for immediate requirements and shall periodically inform the Presidency and, through the Committee on Budget and Finance, the Assembly of States Parties of such investments. Short-term investments are investments made for up to 12 months.

9.2 The Registrar may make investments for longer than one year of moneys not needed for that period and shall periodically inform the Presidency and, through the Committee on Budget and Finance, the Assembly of States Parties, of such investments.

Rule 109.1
Policy

~~(a) Short-term investments are investments made for less than 12 months.~~

~~(b)~~ The Registrar shall ensure, including by establishing appropriate guidelines and by selecting reputable financial institutions or other counterparties that offer sufficient safeguards against any investment losses, that funds are invested in such a way as to place primary emphasis on excluding the risk to principal funds while ensuring the liquidity necessary to meet the Court's cash-flow requirements. In addition to, and without detracting from, these primary criteria, investments shall be selected on the basis of achieving the highest reasonable rate of return and shall accord, to the fullest extent possible, with the independence and impartiality of the Court and with the purposes and principles of the Charter of the United Nations.

Rule 109.2
Investment ledger

Investments shall be recorded in an investment ledger, which shall show all the relevant details for each investment, including, for example, face value, cost of the investment, date of maturity, place of deposit, market value of the investment from time to time as reflected in the account statements provided by the relevant financial institution, proceeds of sale and income earned. A record of all account statements received from financial institutions or other counterparties relating to any investment shall be maintained.

Rule 109.3
Custody of investments

(a) All investments shall be made through, and maintained by, reputable financial institutions or other counterparties designated by the Registrar (see also rule 109.1 ~~(b)~~).

(b) All investment transactions, including the withdrawal of invested resources, require the authorization and signature of two officials designated for that purpose by the Registrar.

Annex II

Amendments to Administrative Instruction on Investment of ~~Surplus~~ Funds (ICC/AI/2012/002)

INVESTMENT OF ~~SURPLUS~~ FUNDS

The Registrar, pursuant to section 3 of Presidential Directive ICC/PRESD/G/2003/001 and for the purpose of implementing Financial Regulations 1 and 9 and Financial Rules 101.1(d), 109.1 to 109.5, hereby promulgates the following:

Section 1

Purpose of the Administrative Instruction

1.1. This Administrative Instruction sets out the policy and procedures by which the International Criminal Court ("the Court") shall invest funds that are not needed for immediate operational requirements as well as funds not needed for more than one financial period, such as funds that are held in respect of employee benefit liabilities or reserve accounts established by the Assembly of States Parties ("the Assembly"). They shall be considered as surplus funds available for investment ("~~**Surplus**~~ **Funds**").

Section 2

Scope

2.1. This Administrative Instruction applies to ~~short-term~~ investments of ~~Surplus~~ Funds for all official accounts of the Court, that is to investments on accounts in the:

(a) General Fund;

(b) Working Capital Fund;

(c) Trust Funds; and

(d) ICC Special Accounts.

2.2. ~~Surplus~~ Funds shall be invested on a global basis and for a period of up to twelve months, in accordance with Financial Regulation 9 and Financial Rule 109.1. Funds may be invested for periods longer than twelve months if, based on projected cash flow estimates, funds will not be needed in that period.

Section 3

Investment responsibilities

3.1. In accordance with Financial Regulation 1 and Financial Rule 101.1 (d), the Registrar delegates his/her authority to the Treasurer for ~~short term~~investments of monies not immediately required by the Court. The Treasurer shall be responsible for the day-to-day management and control of investments under the direct supervision of the Chief of ~~Budget &~~Finance.

3.2 On the basis of a recommendation of the Investment ~~r~~Review Committee, the Registrar may appoint one or more investment managers, who shall invest the funds in accordance with agreed policies and strategies. The ~~i~~Investment manager(s) will be selected in line with Standard Operating Procedures on Procurement.

Section 4

Investment policy

4.1. The primary principle of the Court's investment policy is the preservation of the purchasing power of the Court's cash assets. Within this overall objective, the main principles governing the investment of funds shall be:

(a) Maintaining liquidity for short-term investments;

(b) Avoiding undue currency risks; ~~and~~

(c) Earning a reasonable rate of return without jeopardi~~s~~zing the security of the Court's assets;~~.~~ and

~~(c)~~(d) Aligning the structure of the Court's assets and liabilities by currency and maturity.

Section 5

Determination of ~~Surplus~~ Funds

5.1. The Chief of ~~Budget and~~ Finance, together with the Treasurer~~,~~ or appointed investment manager(s) shall determine the amounts and maturities of investments on the basis of cash flow projections, monthly expenditure forecasts, and any maturing investments.

5.2 The projection of cash outflows relating to long-term employee benefit liabilities may be provided by a certified a~~A~~ctuary.

5.~~2~~3. Since the dates on which a large part of the Court's income will be paid cannot be accurately predicted, the amounts and maturities of investments shall be placed in a manner which covers the Court's immediate monthly disbursement needs for operational purposes. When this requirement has been met, any remaining funds may be invested ~~for periods of up to twelve months~~.

Section 6

Types of investments

6.1. Investments shall ~~be made on a short-term basis for periods of up to twelve months. They shall~~ be placed in the following instruments:

(a) Currency time deposits;

(b) Money market funds;

(c) Currency certificates of deposit;

(d) ~~Notes and bonds with short-term maturities~~Government bonds and debt securities;

(e) Commercial paper issued by banks;

(f) Treasury bills and notes; and

(g) Bankers' acceptances.

6.2. Funds required for ~~future disbursements~~immediate requirements shall be kept in interest-bearing current accounts, withdrawal from which requires no advance notice. Funds in current accounts shall also serve as a liquidity reserve, so that any unforeseen cash requirements may be covered.

Section 7

Bidding procedures

7.1. When placing investments, other than investments managed by appointed investment managers, the Treasurer shall seek to obtain competitive bids from at least three different sources. Funds shall normally be placed with the source providing the highest rate of return and the purchase transaction will be performed with the counterparty offering the best price, subject to the restrictions stated in Section 9.1 and Section 9.3 below.

7.2. This procedure shall also be followed in situations where prior investments reach their maturity date, but the funds are not required at that stage~~,~~ and should be rolled over. In a situation where there is an investment rollover, if an alternative bank is found to be offering a more competitive interest rate, the principal plus interest shall then be transferred to the bank offering the highest interest rate.

7.3. Any exceptions to the bidding process and reasons for not accepting the ~~highest~~ most favourable bid must be approved by the Chief of ~~Budget and~~ Finance, recorded and attached to the copy of the confirmation order. After receiving the ~~bank's~~ counterparty's official advice confirming the placement or transaction, the Treasurer shall compare the confirmation order with the ~~bank's~~ counterparty's advice and follow up on discrepancies without delay.

Section 8

Investments Review Committee and Investment Reporting

8.1. All investments and investment operations shall be reviewed periodically by the Investments Review Committee in accordance with its terms of reference as set out in annex 1 to this Administrative Instruction. The Investments Review Committee shall act in an advisory capacity to the Registrar.

8.2. In accordance with Financial Regulation 9.1, the Registrar shall report periodically on all investments to the Presidency and, through the Committee on Budget and Finance, to the Assembly of States Parties.

Section 9

~~Bank selection and investment limits~~Investment safeguards and criteria

9.1. For reasons of security, investments shall be placed only with ~~banks or financial institutions~~issuers which offer a minimum AA (-) long-term credit rating as assessed by Standard & Poor's, Moody's or Fitch, which indicates that an ~~institution~~ issuer has a very strong ability to repay debt obligations.

9.2. The Treasurer shall, on behalf of the Registrar, maintain an up-to-date list of reputable banks and financial institutions which are domiciled in the major money market centres throughout the world. All investments shall require the signature of two official bank signatories in accordance with Financial Rule 109.3 (b).

9.3. Investments shall be spread amongst a number of reputable ~~banks~~ counterparties to ~~avoid~~ minimizse ~~concentrating~~ concentration risk~~too many funds within few institutions~~. Not more than one third of the ~~cash assets~~ investments shall normally be ~~invested~~ in the financial instruments of one ~~institution~~issuer. If the ~~cash assets~~short-term investments decrease to a point where more than one third is invested in the financial instruments of one ~~institution~~issuer, the situation shall be regularizsed ~~as soon as sufficient time deposits have~~at the earliest date at which investments matured. Not more than 20 per cent of long-term investments shall be placed in any one financial instrument of any single issuer.

9.4. The ~~banking~~ counterparty selection and investment limits for short-term investments shall be relaxed during periods of external events such as an unstable situation in the financial sector. The Treasurer, together with the Chief of ~~Budget and~~ Finance, shall determine concentration of funds and ~~banking~~ counterparty selection based on the safety and security of the funds. This exception shall be approved by the Chief of ~~Budget and~~ Finance or the Investment Review Committee. The ~~concentration of funds and banking selection~~ standard procedures shall be reinstated immediately upon the stabilisization of the financial sector. If the issuer's credit rating is downgraded after the Court has invested in a long-term financial instrument, the Court will dispose of such investment at the first opportunity, taking into account investment results.

9.5. The structure of investments shall be aligned by currency and maturity to the structure of corresponding liabilities.

9.6. Investments in government bonds and debt securities will be made with the intention to hold investments until maturity in order to mitigate exposure to market risks.

Section 10

Monitoring of investments

10.1. All investments shall be closely monitored by the Treasurer so that he/she can anticipate and appropriately respond to any risks, such as deteriorating economic or political conditions in countries where the funds are located, or~~,~~ deteriorating credit ratings of banks with which investments are placed, which may have a negative effect on the value of any unmatured investments~~ which have not matured~~. Any potential or real risks which may arise shall be brought immediately to the attention of the Investments Review Committee.

10.2. ~~Shortly b~~Before an investments reaches maturity, the Chief of ~~Budget and~~ Finance, in coordination with the Treasurer, shall decide~~,~~ whether all or part of a maturing investment should be rolled over, invested in another financial instrument or transferred to a current account on the basis of the ~~estimated availability and utilisation of cash~~liquidity position, the investment plan and the recommendations of the Investments Review Committee. The Treasurer shall instruct the banks holding such investments as to the disposition of those funds. If the investments are redeemed, the Treasurer shall ensure that the correct amount, including the principal plus investment income, is credited to the Court's accounts.

10.3. Investment managers appointed in accordance with paragraph 3.2 will be required to provide regular and detailed ~~regular~~ reports to the Court.

Section 11

Accounting procedures

11.1. The ~~Treasurer~~ Accounts Officer shall record all investment transactions, placements, redemptions and investment income in the accounts of the Court.

11.2. Investments shall also be recorded by the Treasurer in an investment ledger which shows the relevant details of each investment, including ~~the~~:

(a) ~~Face~~ Nominal value;

(b) Cost;

(c) Transaction costs;

(d) Amortiz~~s~~ed cost;

(e) Market value;

~~(c)~~(f) Date of maturity;

~~(d)~~(g) ~~Place of deposit~~Issuer;

(h) Custodian;

(i) Nominal and effective interest rate;

(j) Accrued interest;

~~(e)~~(k) Proceeds of sale; and

~~(f)~~(l) Any income earned.

Section 12

Accounting and reporting rules ~~of~~ for investments

12.1. On a monthly basis, the Treasurer shall report to the Registrar, through the Chief of ~~Budget and~~ Finance, on the status of the Court's investments by:

(a) Type of investment;

(b) ~~Bank~~Issuer;

(c) Currency;

(d) ~~Face value~~Amorti~~s~~zed cost;

(e) Time period;

(f) Maturity date;

(g) Interest rate; and

(h) Investment income.

12.2 Investments shall be recogni~~s~~zed and measured in the Court's accounting records in line with the requirements of IPSAS 29 Financial instruments: recognition and measurement.

Section 13

Custody of investments

13.1. The Treasurer shall be responsible for the custody of investment securities and other investment papers which shall be deposited in the safe located in the Finance Section, or in the safe deposit boxes of banks or other financial institutions.

Section 14

Final Provisions

14.1. This Administrative Instruction shall enter into force on ~~18 July 2012~~XX 2015 and shall supersede any previous administrative issuance on this subject.

Annex III

Long-term budget projections including ASHI

Budget (in 000 eur)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Staff and other staff cost judges										
Long-term benefits (cash basis)	*552*	*0*	*0*	*460*	*0*	*0*	*350*	*0*	*0*	*607*
Long-term benefits (accrual basis)	160	160	160	184	173	174	202	186	188	208
Staff										
Long-term benefits (cash basis)	*227*	*135*	*436*	*1,416*	*1,783*	*1,514*	*2,221*	*2,180*	*1,711*	*2,719*
Long-term benefits (accrual basis)	2,345	2,703	2,852	2,931	3,337	3,448	3,568	3,739	3,823	3,919

Budget (in 000 eur)	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Staff and other staff cost judges										
Long-term benefits (cash basis)	*0*	*0*	*637*	*0*	*0*	*476*	*0*	*0*	*664*	*0*
Long-term benefits (accrual basis)	190	192	212	196	198	223	204	206	229	209
Staff										
Long-term benefits (cash basis)	*1,371*	*969*	*1,073*	*1,937*	*652*	*991*	*2,127*	*921*	*1,405*	*2,714*
Long-term benefits (accrual basis)	4,196	4,260	4,394	4,783	4,997	5,228	6,028	6,259	6,634	7,727

Budget (in 000 eur)	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
Staff and other staff cost judges										
Long-term benefits (cash basis)	*0*	*698*	*0*	*0*	*526*	*0*	*0*	*728*	*0*	*0*
Long-term benefits (accrual basis)	211	234	215	217	246	224	226	252	230	232
Staff										
Long-term benefits (cash basis)	*2,519*	*1,375*	*3,182*	*3,546*	*2,847*	*3,425*	*4,132*	*1,347*	*963*	*2,001*
Long-term benefits (accrual basis)	8,082	8,475	10,048	10,446	10,416	12,993	13,406	13,749	16,299	16,191

Annex IV

Sensitivity analysis of After Service Health Care Insurance (ASHI) plan

1. Since the results for the ASHI scheme are very much dependent on the assumptions, a sensitivity analysis was performed in which the following assumptions were used:

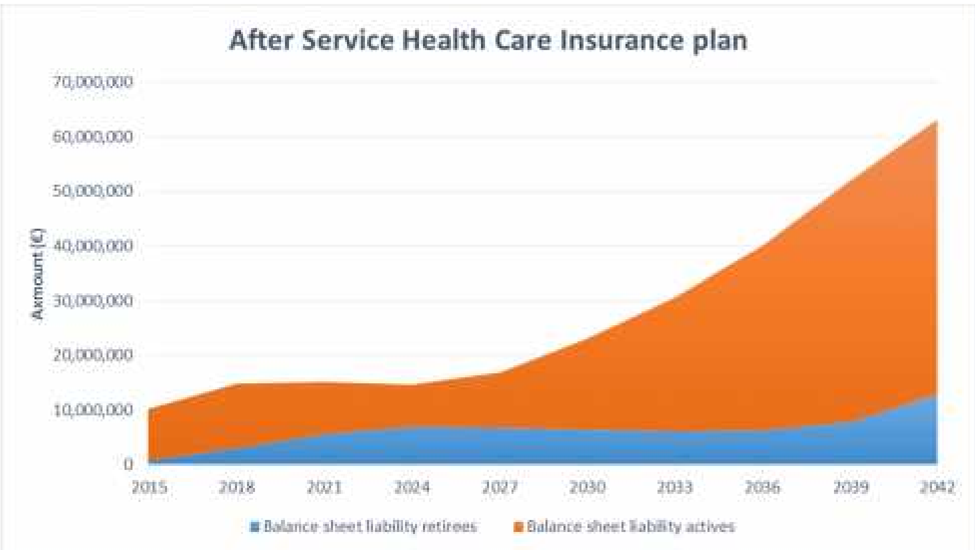
(a) The medical cost trend rate was set at 2.5 per cent, instead of the 5.0 per cent used in the first calculation; and

(b) The turnover rates were adjusted, as follows:

Age group (years)	Old	New
<25	7.00%	7.00%
25-30	7.00%	10.25%
30-35	7.00%	7.25%
35-40	5.00%	5.25%
40-45	5.00%	4.25%
45-50	3.00%	3.50%
50-55	3.00%	3.50%
55-60	0.50%	7.25%
60-65	0.50%	13.25%

2. The Old column shows the turnover rates used in the initial calculations, while the New column shows the revised turnover rates. The updated turnover rates are based on the UNJSP withdrawal rates, projected for the current working population of Court.

3. The graph below shows the balance sheet liability of the ASHI scheme, differentiating active members from retirees, calculated on the basis of the amended assumptions mentioned above.



4. The general trend visible in the graph above is the same as in the original graph. The magnitude of the liability will, however, be lower. This is in line with expectations based on the amended assumptions.